

## STAFF REPORT

**TO:** Planning and Zoning Commission      **DATE:** 10/03/07(public hearing)  
**FROM:** Shannon Tuch, RLA, Interim Planning and Development Director  
**SUBJECT:** Zoning Ordinance Wording Amendment – to modify standards regulating large retail structures.

**Summary Statement:** The consideration of amendments to Chapter 7 of the *Code of Ordinances of the City of Asheville* (UDO) to modify definitions and standards found in Articles V, VIII, XVI restricting and regulating large retail structures.

**Background:**

As the result of several recent development proposals, City staff and the Asheville City Council have become aware of some allowances afforded large retailers when classified as multi-tenant developments.

Council recently requested an amendment to the standards for large retail structures that would restrict large retailers from exceeding the standards for single tenants by including one or more comparatively diminutive tenants in order to gain additional square footage for the primary retailer. As with many amendments there are varying degrees of restrictiveness that may be considered.

The most basic level of amendment would be to amend the definition of multi-tenant development to require that separate tenants have their own separate entrances and attached signage identifying the separate businesses from the exterior of the building. Currently, the definition only requires that they produce separate “activities” and that they share a common parking field or pedestrian mall area.

The next level of consideration is to limit the size of any individual retailer regardless of their classification as a single tenant or multi-tenant. Only one zoning district currently restricts the size of single tenant; Highway Business limits single tenants to 75,000 square feet (increased up to 112,500 s.f. if complies with big box retail checklist). This restriction could be extended to a multi-tenant development to require that no single retailer exceed 75,000 square feet. This would likely preclude some large national chain retailers from locating in the Highway Business district and could also be considered in other zoning districts as well such as the River District where encouraging ecologically responsible development that supports local river oriented businesses is a primary goal. Highway Business is also the only zoning district that restricts the size of multi-tenant developments as well at 200,000 square feet (increased up to 300,000 square feet if development complies with big box retail check list).

Another less restrictive option would be to limit the primary retailer to no more than 75 percent of the total gross square footage. This would allow for the primary retailer to exceed the 75,000 square feet as long as opportunities for other small or mid-sized

retailers are provided. Given the existing restrictions in the HB zoning district and the stated goals of the RIVER district and City adopted plans, staff is proposing a combination of the above to meet certain goals while still providing opportunities for developers of large retail centers.

This draft has been circulated to CIBO, CAN, and CREIA along with other interested parties. New text is highlighted in grey.

**Pros**

- Better reflects City adopted goals and objectives.
- Supports City adopted plans for the River District areas.
- Allows greater opportunity for small and mid-sized retailers and service providers.
- Guides large “mega-box” retailers in appropriately zoned areas (CI, IND, RB).

**Cons**

- Restricts the ability to site large “mega-box” retailers in the HB and RIVER district areas.

**Recommendation:** Staff recommends approval of the code amendment as proposed.

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE MODIFYING STANDARDS FOR LARGE RETAIL STRUCTURES.**

---

WHEREAS, the City of Asheville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, the City of Asheville sets forth in Articles II, VIII, and XVI of Chapter 7, various standards regulating large retail structures;

WHEREAS, it has been determined that the modification of these standards restricting and regulating large retail structures furthers city adopted goals and objectives; and

WHEREAS, this proposed ordinance is determined to be reasonable and in the public interest as follows;

- a. Promotes opportunities for smaller retailers.
- b. Sites large “mega-box” retailers in appropriate locations.
- c. Encourages compatible infill development.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Amend the following sections of Chapter 7:

Amend the following definition in Section 7-2-5 to read:

*Multiple tenant development* means a development in which there exists a number of individual and separate occupiable spaces and in which there are appurtenant shared ancillary facilities (such as parking areas or pedestrian mall areas) with each space having a separate operable entrance opening onto or leading to the area of shared facilities.

HB - Section 7-8-16(f)(2) be amended to read:

- (2) *Structure size standards.* New developments in the Highway Business District shall not exceed a total of 200,000 square feet in gross floor area for multiple tenant developments and 75,000 square feet in gross floor area for single tenant developments. In multi-tenant developments, no single retailer may exceed 75,000 square feet, or those limits set forth in 7-16-2(c)(10) and shall not

constitute more than 75 percent of the total gross floor area; existing developments shall not be expanded to exceed these limits.

RB - Section 7-8-17(e) be amended to include:

Single tenant retail structures and multi-tenant retail structures with a gross floor area of more than 100,000 square feet.

*(\* Please note: This item corrects a lost reference and does not contribute to the content of this amendment.)*

RIVER – Section 7-8-19(f)(2) be amended to read:

In multi-tenant developments, no single retailer may exceed 100,000 square feet and shall not constitute more than 75 percent of the total gross floor area.

RB, CI, IND – Amend Sections 7-8-17(f)(2), 7-8-20(f)(2), 7-8-22(f)(2) to read:

In multi-tenant developments, no single retailer shall constitute more than 75 percent of the total gross floor area.

Section 2. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. This ordinance shall become effective upon adoption.

Read, approved, and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
City Attorney